

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee  
Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs  
Bonnie Hough, Supervising Attorney, 415-865-7668,  
bonnie.hough@jud.ca.gov

DATE: September 10, 2003

SUBJECT: Family Law: Child Custody and Visitation Orders (revise forms FL-311 and FL-341; approve forms FL-341C, FL-341D, FL-341E, and FL-355)  
(Action Required)

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Issue Statement

This proposal consists of attachments to current custody and visitation forms (1) to allow litigants to set out a parenting schedule for holidays and (2) for judicial officers to specify the scope of joint legal custody and incorporate common provisions regarding physical custody. It also includes a standard stipulation form for parents to incorporate an agreement drafted by themselves or family court services.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2004, revise forms FL-311 and FL-341; and approve forms FL-341C, FL-341D, FL-341E, and FL-355

The proposed forms are attached at pages 4–12.

Rationale for Recommendation

These forms are designed to address common issues in custody and visitation orders, to help provide more standard forms for litigants to use, to allow more specificity in agreements and orders, and to allow better enforcement of these orders.

Current form FL-311 *Child Custody and Visitation Application Attachment*, sets out the basic requests for custody and visitation orders, and current form FL-341, *Child Custody and Visitation Order Attachment*, sets out the custody and visitation orders approved by the court. These forms cover basic issues regarding determination of custody, visitation, and transportation arrangements. However, they do not address

matters such as holidays, summer vacation and similar issues that are also of concern to parents. Four new optional forms are proposed to address these and other common issues that recurred regularly in a statewide review of custody agreements. These new forms are designed to be used for agreements by the parents or as attachments for court orders.

- FL-341C, *Children's Holiday Schedule Attachment*, would allow parents to set out a holiday and vacation schedule.
- FL-341D, *Additional Provisions – Physical Custody Attachment* would allow parents to obtain orders on common issues such as safety, child care, and phone contact.
- FL-341E, *Joint Legal Custody Attachment*, would allow the court to specify the circumstances under which the consent of both parents is required to be obtained in order for them to exercise legal control of the child and the consequences of the failure to obtain mutual consent as required by Family Code section 3083.
- FL-355, *Stipulation and Order for Custody and/or Visitation of Children*, would provide a simple mechanism by which parents may present any agreements they reach regarding custody or visitation to the court for the judge's signature.

FL-311 and FL-341 would be amended to allow the new optional forms with greater specificity to be attached to the basic custody request.

#### Alternative Actions Considered

The committee considered making these forms mandatory, but determined that given the variety of parenting plan options, that optional forms would be most appropriate at this time. The committee is concerned that many unrepresented litigants currently have difficulty getting guidance on how to construct an enforceable child custody order and anticipate that these forms will assist many litigants and ultimately save time for family court services offices.

#### Comments From Interested Parties

An invitation to comment was circulated to the Administrative Office of the Court's main mailing list of presiding judges and court executives, the State Bar, and other groups interested in the administration of justice. In addition, it was circulated to all family law facilitators, family law information centers, child support commissioners, and legal services programs, as well the Family and Juvenile Law Advisory Committee's list of family law practitioners. Nineteen written comments were received. The comment chart is attached at pages 13–44.

Many thoughtful suggestions were received from family court services mediators as well as attorneys and judges. Commenters submitted additional models of parenting plans and offered many changes to simplify the forms and reduce tension between the parents. The committee modified the forms to incorporate many of these

suggestions including adding language regarding grace periods for missed visits, clarification of holiday schedule language, and additional language regarding what decisions are to be made in cases involving joint legal custody.

Based upon the comments received, the committee is recommending that proposed form FL-341F *Custody and Visitation – Special Issues Attachment*, be revised and recirculated in a future cycle as two separate forms to allow the court to make the many specific findings required in these orders. The committee has withdrawn form FL-341F from this proposal.

The committee is also recommending that FL-341 be amended to be an optional rather than a mandatory form. While there are mandatory findings contained in FL-341, the committee believes that there are enough differences in custody and visitation orders to allow as many options for crafting those agreements as possible.

#### Implementation Requirements and Costs

The only costs associated with this proposal involve printing of revised forms. While one family court services director reported that she was concerned that the forms would increase the workload of mediators by providing additional information – and possible grounds of tension between parents. However, others felt that it could be helpful for parents to reach their own agreements without the need for mediation.

#### Attachments

PETITIONER:	CASE NUMBER:
RESPONDENT:	

# CHILD CUSTODY AND VISITATION APPLICATION ATTACHMENT

☐ to Petition or Application for Order      ☐ To be ordered now and effective until the hearing.

1. ☐ CUSTODY

I request custody orders as follows:

Child's name

Birth date

Legal custody to

(Person who makes decisions about health, education, etc.)

Physical custody to

*(Person who the child lives with.)*

## 2. ☐ VISITATION

I request visitation orders as follows:

- a. ☐ Reasonable right of visitation to the party without physical custody. *(Not appropriate in cases involving domestic violence.)*
- b. ☐ See the attached \_\_\_\_\_ page document dated: \_\_\_\_\_.
- c. ☐ The parties will go to mediation at:
- d. ☐ No visitation.
- e. ☐ Visitation for ☐ Father ☐ Mother will be:

(i)  WEEKENDS (starting):

(The 1st weekend of the month is the 1st weekend with a Saturday.)

1st  2nd  3rd  4th  5th weekend of the month

from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time)

☐ The parents to alternate the 5th weekends, with the ☐ Father ☐ Mother having the first 5th weekend.

☐ Father to have 5th weekends in ☐ odd ☐ even months.

☐ Mother to have 5th weekends in ☐ odd ☐ even months.

(ii) ☐ **ALTERNATE WEEKENDS** (specify starting date): \_\_\_\_\_

☐ Father ☐ Mother to have the children with him/her (specify days and times):

from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time)

(iii)  WEEKDAYS (starting):

☐ Father ☐ Mother to have the children with him/her (specify days and times):

from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
(day of week) (time)

(iv) ☐ **OTHER** (specify days and times as well as any additional restrictions): ☐ See Attachment 2e.

PETITIONER:	CASE NUMBER:
RESPONDENT:	

### CHILD CUSTODY AND VISITATION APPLICATION ATTACHMENT

3. ☐ **SUPERVISED VISITATION**

I request that (name): \_\_\_\_\_ have supervised visitation with the minor children according to the schedule marked above and that the visits be supervised by (name): \_\_\_\_\_, who is a

☐ professional ☐ nonprofessional supervisor. The supervisor's phone number is (specify): \_\_\_\_\_

I request that the costs for supervision be paid as follows: Mother: \_\_\_\_\_ %, Father: \_\_\_\_\_ %

4. ☐ **TRANSPORTATION FOR VISITATION AND PLACE OF EXCHANGE**

- a. ☐ Transportation to the visits will be provided by (name): \_\_\_\_\_
- b. ☐ Transportation from the visits will be provided by (name): \_\_\_\_\_
- c. ☐ Drop-off/Pickup of the children will be at (specify address): \_\_\_\_\_
- d. ☐ The children will only be driven by a licensed and insured driver. The car or truck must have legal child restraint devices.
- e. ☐ During the exchanges, the parent driving the children will wait in the car and the other parent will wait in their home while the children go to the home.
- f. ☐ Other (specify): \_\_\_\_\_

5. ☐ **TRAVEL WITH CHILDREN** ☐ Father ☐ Mother ☐ Other (name): \_\_\_\_\_

**must** have written permission from the other parent or a court order to take the children outside of

- a. ☐ the State of California
- b. ☐ the following counties (specify): \_\_\_\_\_
- c. ☐ other places (specify): \_\_\_\_\_

6. ☐ **CHILD ABDUCTION PREVENTION ORDERS**

There is a risk that one of the parents will take the children out of California without the other parent's permission. I request the orders set out on form FL-312.

7. ☐ **CHILDREN'S HOLIDAY SCHEDULE**

I request the holiday and visitation schedule set out on attached ☐ form FL-341(C) ☐ Other.

8. ☐ **ADDITIONAL CUSTODY PROVISIONS**

I request the additional orders regarding custody set out on attached ☐ form FL-341(D) ☐ Other.

9. ☐ **JOINT LEGAL CUSTODY PROVISIONS**

I am requesting joint legal custody and want the following additional orders set out on attached ☐ form FL-341(E) ☐ Other.

10. ☐ **OTHER**

I request the following additional orders (specify): \_\_\_\_\_

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## CHILD CUSTODY AND VISITATION ORDER ATTACHMENT

Attachment to ☐ Findings and Order After Hearing ☐ Judgment ☐ Other  
☐ Stipulation and Order for Custody and/or Visitation of Children

1. ☐ **CUSTODY** Custody of the minor children of the parties is awarded as follows:

Child's name

Date of birth

Legal custody to

(Person who makes decisions about health, education, etc.)

Physical custody to

(Person the child lives with.)

2. ☐ **VISITATION**

- a. ☐ Reasonable right of visitation to the party without physical custody. (Not appropriate in cases involving domestic violence.)  
b. ☐ See the attached \_\_\_\_\_ page document dated: \_\_\_\_\_.  
c. ☐ The parties will go to mediation at:  
d. ☐ No visitation.  
e. ☐ Visitation for ☐ Father ☐ Mother will be:

(i) ☐ **WEEKENDS** (starting):

(The 1st weekend of the month is the 1st weekend with a Saturday.)

☐ 1st ☐ 2nd ☐ 3rd ☐ 4th ☐ 5th weekend of the month

from \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

☐ The parents will alternate the 5th weekends, with the ☐ Father ☐ Mother having the first 5th weekend.

☐ Father to have 5th weekends in ☐ odd ☐ even months.

☐ Mother to have 5th weekends in ☐ odd ☐ even months.

(ii) ☐ **ALTERNATE WEEKENDS** (specify starting date): \_\_\_\_\_

☐ Father ☐ Mother will have the children with him/her (specify days and times):

from \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

(iii) ☐ **WEEKDAYS** (starting):

☐ Father ☐ Mother will have the children with him/her (specify days and times):

from \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

(iv) ☐ **OTHER** (specify days and times as well as any additional restrictions): ☐ See Attachment 2e(iv).

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3. ☐ **SUPERVISED VISITATION**

until ☐ further order of the court ☐ other  
☐ Father ☐ Mother will have supervised visitation with the minor children according to the schedule set forth on page 1. (You must attach form FL-341(A).)

4. ☐ **TRANSPORTATION FOR VISITATION**

- a. ☐ Transportation to the visits will be provided by ☐ Father ☐ Mother ☐ Other (specify):  
b. ☐ Transportation from the visits will be provided by ☐ Father ☐ Mother ☐ Other (specify):  
c. ☐ Drop-off/Pickup of the children will be at (address):  
d. ☐ The children will be driven only by a licensed and insured driver. The car or truck must have legal child restraint devices.  
e. ☐ During the exchanges, the parent driving the children will wait in the car and the other parent will wait in their home while the children go to the home.  
f. ☐ Other (specify):

5. ☐ **TRAVEL WITH CHILDREN** ☐ Father ☐ Mother ☐ Other (name):

**must** have written permission from the other parent or a court order to take the children outside of

- a. ☐ the State of California  
b. ☐ the following counties (specify):  
c. ☐ other places (specify):

6. ☐ **CHILD ABDUCTION PREVENTION**

There is a risk that one of the parents will take the children out of California without the other parent's permission. Form FL-341(B) is attached and must be obeyed.

7. ☐ **HOLIDAY SCHEDULE**

The children will spend holiday time as listed in attached ☐ form FL-341(C) ☐ Other.

8. ☐ **ADDITIONAL CUSTODY PROVISIONS**

The parents will follow the additional custody provisions as listed in attached ☐ form FL-341(D) ☐ Other.

9. ☐ **JOINT LEGAL CUSTODY**

The parents will share joint legal custody as listed in attached ☐ form FL-341(E) ☐ Other.

10. ☐ **OTHER (specify):**

11. **JURISDICTION:** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code commencing with section 3400).

12. **NOTICE AND OPPORTUNITY TO BE HEARD:** The responding party was given notice and an opportunity to be heard as provided by the laws of the State of California.

13. **COUNTRY OF HABITUAL RESIDENCE:** The country of habitual residence of the child or children in this case is  
☐ the United States ☐ Other (specify):

14. **PENALTIES FOR VIOLATING THIS ORDER:** If you violate this order you may be subject to civil or criminal penalties, or both.

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**CHILDREN'S HOLIDAY SCHEDULE ATTACHMENT**

- ☐ to Petition or Application for Order    ☐ to Findings and Order After Hearing or Judgment  
☐ Stipulation and Order for Custody and/or Visitation of Children

The following Parenting Plan Table lists specific holiday parenting schedules. Specify parents' years, ODD or EVEN or BOTH, starting and ending days and times.

Holiday	Time (from when to when) (Unless otherwise noted, all single-day holidays start at ____ a.m. and end at ____ p.m.)	Every Year Mother/Father	Even Years Mother/Father	Odd Years Mother/Father
January 1 (New Year's Day)				
Martin Luther King Birthday (weekend)				
Lincoln's Birthday				
President's Day (weekend)				
Spring Break 1st half				
Spring Break 2nd half				
Mother's Day				
Memorial Day (weekend)				
Father's Day				
July 4th				
Labor Day (weekend)				
Columbus Day (weekend)				
Halloween				
Veteran's Day (weekend)				
Thanksgiving Day				
Thanksgiving Weekend				
Winter Break 1st half				
Winter Break 2nd half				
New Year's Eve				
Child's Birthday				
Mother's Birthday				
Father's Birthday				
Breaks for Year Round Schools				
Summer Break 1st half				
Summer Break 2nd half				
Other (specify):				

<input type="checkbox"/> Three-day weekends not specified above will be spent with the parent who would normally have that weekend. <input type="checkbox"/> Other (specify):
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**VACATION**

- ☐ Mother    ☐ Father    may take a vacation with the children each year of up to \_\_\_\_\_ ☐ days    ☐ weeks \_\_\_\_\_ times per year. They must notify the other parent in writing of their vacation plans a minimum of \_\_\_\_\_ days in advance and provide the other parent with a basic itinerary to include dates of leaving and returning, destinations, flight information and telephone numbers for emergency purposes.    ☐ The other parent has \_\_\_\_\_ days to respond if there is a problem with the schedule.
- ☐ This vacation may be outside of California.  
☐ Other (specify):



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**ADDITIONAL PROVISIONS—PHYSICAL CUSTODY ATTACHMENT**

- ☐ to Petition or Application for Order    ☐ to Findings and Order After Hearing or Judgment  
☐ Stipulation and Order for Custody and/or Visitation of Children

1. ☐ **NOTIFICATION OF PARENT'S CURRENT ADDRESS**

Each parent must notify the other parent of his or her current address and telephone number within \_\_\_\_\_ days of any change in his or her

- a. Address for ☐ residence ☐ mailing ☐ work  
 b. Telephone/message numbers at ☐ home ☐ work ☐ the children's schools

Neither parent may use such information for the purpose of harassing, annoying, or disturbing the other's peace or invading the other's privacy. If a parent has an address with the State of California's Safe at Home confidential address program, no physical address is needed.

2. ☐ **NOTIFICATION OF PROPOSED MOVE OF CHILD**

Each parent must notify the other parent \_\_\_\_\_ days prior to any planned change in residence of the children. The notification must state, to the extent known, the planned address of the children including the county and state of the new residence. The notification must be sent by certified mail, return receipt requested.

3. ☐ **CHILD CARE**

- a. ☐ The children must not be left alone without age-appropriate supervision.  
 b. ☐ The parents must let each other know the name, address and phone number of the children's regular child care providers are.

4. ☐ **RIGHT OF FIRST OPTION OF CHILD CARE**

In the event either parent requires child care for \_\_\_\_\_ hours or more while the children are in his or her custody, the other parent must be given first opportunity, with as much prior notice as possible, to care for the children before other arrangements are made. Unless specifically agreed or ordered by the court, this order does not include regular child care needed when a parent is working.

5. ☐ **CANCELED PARENTING TIME**

- a. ☐ If the noncustodial parent fails to arrive at the appointed time, and fails to notify the custodial parent that he or she will be late, then the custodial parent need only wait for \_\_\_\_\_ minutes before considering the visitation canceled.  
 b. ☐ In the event a noncustodial parent is unable to exercise visitation on a given occasion, he or she must notify the custodial parent at the earliest possible opportunity.  
 c. ☐ The custodial parent must give the noncustodial parent as much notice as possible if the children are ill and unable to participate in time with the other parent. ☐ A doctor's excuse is required.

6. ☐ **PHONE CONTACT BETWEEN PARENTS AND CHILDREN**

- a. ☐ The children may have telephone access to the parents ☐ and the parents may have telephone access to the children, at reasonable times, for reasonable durations.  
 b. ☐ The scheduled phone contact between parents and the children is (specify):  
 c. ☐ Neither parent nor any other third party may listen to or monitor the calls.

7. ☐ **NO NEGATIVE COMMENTS**

Neither parent will make or allow others to make negative comments about the other parent, the other parent's past or present relationships, family, or friends within hearing distance of the children.

8. ☐ **NO USE OF CHILDREN AS MESSENGERS**

The parents will communicate directly with each other on matters concerning the children and may not use the children as messengers between them.

9. ☐ **ALCOHOL OR SUBSTANCE ABUSE**

☐ Mother ☐ Father may not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except by prescription) within \_\_\_\_\_ hours prior to or during periods of time with the children ☐ nor permit any third party to do so in the presence of the children.

10. ☐ **NO EXPOSURE TO CIGARETTE SMOKE**

The children will not be exposed to secondhand cigarette smoke while in the home or car of the other parent.

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11. ☐ **NO INTERFERENCE WITH SCHEDULE OF OTHER PARENT WITHOUT THAT PARENT'S CONSENT**

Neither parent will schedule activities for the children during the other parent's scheduled parenting time without the other parent's prior agreement.

12. ☐ **THIRD PARTY CONTACT**

- a. ☐ The children will have no contact with *(specify name)*:
- b. ☐ The children must not be left alone in the presence of *(specify name)*:

13. ☐ **CHILDREN'S CLOTHING AND BELONGINGS**

- a. ☐ Each parent will maintain clothing for the children so that the children do not have to make the exchanges with additional clothing.
- b. ☐ The children will be returned to the other parent with the clothing and other belongings they had when they arrived.

14. ☐ **LOG BOOK**

The parents will maintain a "log book" and make sure that the book is sent with the children between their two homes. Using businesslike notes (no personal comments), parents will record information related to the health, education, and welfare issues that arise during the time the children are with them.

15. ☐ **TERMS AND CONDITIONS OF ORDER MAY BE CHANGED**

The terms and conditions of this order may be added to or changed as the needs of the children and parents change. Such changes will be in writing, dated and signed by both parents; each will retain a copy. If the parents want this to be a court order, it must be filed with the court in the form of a court document.

16. ☐ **OTHER** *(specify)*:

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## JOINT LEGAL CUSTODY ATTACHMENT

- ☐ to Petition or Application
 ☐ to Findings and Order After Hearing or Judgment  
☐ to Stipulation and Order for Custody and/or Visitation of Children

1. Parents will have joint legal custody of the minor children.
2. In exercising joint legal custody, the parents will share in the responsibility and confer in good faith on matters concerning the health, education, and welfare of the children. The parents must confer in making decisions on the following matters:
  - a. ☐ Enrollment in or leaving a particular private or public school or daycare center
  - b. ☐ Participation in particular religious activities or institutions
  - c. ☐ Beginning or ending of psychiatric, psychological, or other mental health counseling or therapy
  - d. ☐ Selection of a doctor, dentist, or other health professional (except in emergency situations)
  - e. ☐ Participation in extracurricular activities
  - f. ☐ Out-of-country or out-of-state travel
  - g. ☐ Other (*specify*):

In all other matters in exercising joint legal custody, the parents may act alone, as long as the action does not conflict with any orders concerning the physical custody of the children.

3. The consequence of not obtaining the consent of the other parent to the decisions checked in item 2 are:
4. ☐ Special decision-making designation
  - a. ☐ Father ☐ Mother will be responsible for making decisions regarding the following issues (*specify*):
  - b. ☐ Each parent will have access to the children's school, medical, and dental records and the right to consult with those professionals providing services to the children
5. ☐ Health-care notification
  - a. ☐ Each parent must notify the other of the name and address of each health practitioner who examines or treats the children; such notification to be made within \_\_\_\_\_ days of the commencement of the first such treatment or examination.
  - b. ☐ Each parent is authorized to take any and all actions necessary to protect the health and welfare of the children, including but not limited to consent to emergency surgical procedures or treatment. The parent authorizing such emergency treatment must notify the other parent as soon as possible of the emergency situation and of all procedures or treatment administered to the children.
  - c. ☐ Both parents are required to administer any prescribed medications for the children.
6. ☐ School notification: Each parent will be designated as a person the children's school is to contact in the event of an emergency.
7. ☐ Name: Neither parent will change the last name of the children or have a different name used on the children's medical, school or other records without the written consent of the other parent.
8. ☐ Other (*specify*):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO:</div> <div>FAX NO. (Optional):</div> </div> E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	TELEPHONE NO.:  FOR COURT USE ONLY  <div style="text-align: center; font-size: 24pt; font-weight: bold;">DRAFT 8</div> <div style="text-align: center; font-size: 24pt; font-weight: bold;">09/26/03</div>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER:	
<b>STIPULATION AND ORDER FOR CUSTODY AND/OR VISITATION OF CHILDREN</b>	CASE NUMBER:
<input type="checkbox"/> <b>MODIFICATION</b>	

**The parties signing this stipulation agree that:**

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The habitual residence of the children is the United States of America.
3. **The parties acknowledge they were advised that any violation of this order may result in civil or criminal penalties, or both.**
4. a. The parties stipulate that the attached document, dated (specify): \_\_\_\_\_ and consisting of (number): \_\_\_\_\_ pages is their custody and visitation agreement and request that it be made an order of the court, or
  - b. The parties stipulate that the attached forms
 

☐ FL-341  
☐ FL-341(A)  
☐ FL-341(B)  
☐ FL-341(C)  
☐ FL-341(D)  
☐ FL-341(E)

 are their agreement regarding custody and/or visitation of their children and request that they be made an order of the court.

Each party declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF PETITIONER)
Date: _____ _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF RESPONDENT)
Date: _____ _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____ _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR RESPONDENT)
Date: _____ _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF OTHER)
Date: _____ _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR OTHER)

### FINDINGS AND ORDER

**THE COURT FINDS:**

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The habitual residence of the children is the United States of America.
3. Both parties have been advised that any violation of this order may result in civil or criminal penalties, or both.

**THE COURT ORDERS:**

1. The agreement of the parties regarding custody and visitation ☐ as set forth in the attached document dated (specify): \_\_\_\_\_ and consisting of (number): \_\_\_\_\_ pages or ☐ set forth in the attached forms:
 

☐ FL-341  
☐ FL-341(A)  
☐ FL-341(B)  
☐ FL-341(C)  
☐ FL-341(D)  
☐ FL-341(E)

 is adopted as the order of the court and fully incorporated by reference herein.

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

**SPR03-47****Family Law: Child Custody and Visitation Order**

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Mr. Grant Barrett General Counsel Superior Court of California, County of Calaveras By Diane Goodman, Family Court Services Director	AM	N	FL-311: - item 4. add box “a 30 minute grace period is allowed before a party is allowed to leave and consider the visit cancelled. FL-341C: - Holidays shall be spent with the parent who normally would have the weekend. FL-341: - item 4. add box “a 30 minute grace period is allowed before a party is allowed to leave and consider the visit cancelled.”	This is covered by FL-341(D).  That option has been added.  This is covered in FL-341(D).
2.	Hon. Kathleen Bryan Commissioner Superior Court of California, County of San Bernardino	N	N	Too cumbersome.	These are optional forms
3.	Ms. Christine Copeland Attorney, Family Law Facilitator’s Office Superior Court of California, County of Santa Clara	AM	N	1. FL-311 – should item 1 a include a phrase like “for more specifics about legal custody, see form FL-341E”? 2. FL-311 – should form say at bottom “this is not a court order”? 3. FL-341F – item 7 and 8 – can’t this be ordered only if parties agree? 4. also at top of form FL-341F (and form FL-341E and FL-341D) where you check whether this is an application or an order/judgment, should we add “stipulation” to the order/judgment section? 5. FL-341E great! The family code also specifies that need for order to state which parent has veto power if they can’t agree on	This seems somewhat cumbersome.  This generally doesn’t say that on applications other than in DV. Agree. This form will be redrafted and recirculated. Agree  This does not seem to be clear in the family code.

**SPR03-47****Family Law: Child Custody and Visitation Order**

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<p>an issue, so maybe there should be boxes to check which parent has veto power and/or when/for what issues, if there is a deadlock, the court must resolve.</p> <p>6. FL-341D:</p> <ul style="list-style-type: none"> <li>- item 1 – re: 4 days clause; I am uncomfortable in that there is no code section (is there?) specifying this. Whose rule is this?</li> <li>- item 2 – it seems like it’s ok to move as long as you give notice</li> <li>- item 10 – insert “or allow others to make” in terms of who cannot make disparaging remarks (so, not only do you want the parents not to make such remarks, but you don’t want the parents to allow others to make such remarks in the child’s presence).</li> <li>- Item 14 – heading says “firearms” but the clause talks about not using the kid as a messenger.</li> </ul> <p>7. FL-355 – great form, and I hope it can be used in IV-D cases too!</p>	<p>Agree – will revise</p> <p>Agree – see Family Code section 3024</p> <p>Will change language</p> <p>Agree</p> <p>Yes, it can be used in IV-D cases</p>
4.	Mr. Robert Gerard President Orange County Bar Association	AM	Y	The best custody and visitation orders are those that are tailor-made to suit the needs of the individual children involved. The concept of having parents and/or bench officers select the custody and visitation arrangement for the children of divorcing parents from a checklist provided by the Judicial Council or by their local Family Court Services Department may	Agree

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				<p>not result in an order that best for the children. Nevertheless, these proposed orders have been around for a long time and may be a good idea for parents who need some suggestions. The danger is that they could result in a generalized understanding that this is “what’s normal” – rather than forcing the parents and/or bench officers to custom make an order that will most part “optional” – not “adopted for mandatory use.’ Having said that, there are some specific sections that need to be addressed.</p> <p>Section 6 of the proposed Custody and Visitation—Special Issues Attachment has check boxes for “Random Drug Testing.” This is clearly not permitted under current California case law. See <i>Wainwright v. Super. Ct.</i> (Sinkler) 2000 Cal.App.4<sup>th</sup> 262 that held Family Code section 3011(d) “devoid of any substantive or procedural safeguards” and not authorizing court-ordered drug testing.</p> <p>Finally, section 12 of the Additional Provisions—Physical Custody Attachment for is interesting. Do we want our courts to be able to order, “The children will not be exposed to second-hand cigarette smoke while in the home or car of the other person.”?</p>	<p>Agree</p> <p>This is a common provision in many family court services agreements.</p>
5.	Ms. JoAnn Johnson Family Law Facilitator Superior Court of California, County of Ventura	AM	N	<p>Joint legal custody attachment:#5 – add “Each parent shall have the right to obtain children’s records directly from school, medical provider, day care provider.”</p> <p>Physical custody attachment #14 – Firearms and</p>	<p>Agree</p> <p>Agree</p>

**SPR03-47****Family Law: Child Custody and Visitation Order**

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				explanation do not coincide. Drug testing – this should be only by court order and not on a form which can be attached to a default judgment.	This form will be redrafted and recirculated and will clarify that this can only be done by stipulation.
6.	Ms. Carla Khal Family Law Facilitator Superior Court of California, County of Tulare	A	N	These will all be very useful for self-represented litigants but especially the legal custody form which is consistently a problem to explain/understand.	No response required.
7.	Gary LaLonde-Berg Supervising Court Evaluator Superior Court of California, County of Riverside	AM		<p>In general I suggest that the forms be labeled and organized based on the expected frequency and necessity for use. I suggest that the orders which are almost always used all be included in FL341. The logic of the attachments can thus be reconsidered. The overall organization could be:</p> <p>Current version → [Proposed new numbering]  FL341 Child Custody and Visitation Order Attachment</p> <p>Note: (add to this the items which belong in all orders – then we don't have to worry about forgotten attachments)</p> <p>FL341A Supervised Visitation Order [Make this E, or better FL341SV]  FL341B  FL341C Children's Holiday Schedule attachment [leave as C]  FL341D Additional Provisions – Physical Custody Attachment [proposed B]</p>	Agree in concept. However, not all forms are under consideration (including FL-341A and B children's Holiday Schedule seems as if it would be more commonly used than Additional Provisions – Physical Custody. Holiday provisions are a common attachment to Petitions for default matters.



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				<p>FL341E Joint Legal Custody Attachment [Proposed A – if we can’t do that now (due to supervised visit form) make it B]</p> <p>FL341F Special Issues Attachment [make this D]</p> <p>FL355 Stipulation &amp; Order for Custody</p> <p><b>Form: FL341</b> <b>Item: 1</b> <b>Revised text or note:</b> The introduction, 1048 language and legal &amp; physical categories are a good revision</p> <p><b>Form: FL341</b> <b>Item: 2</b> <b>Revised text or note:</b> Any place where it says visitation should be labeled as “parenting time”. Visitation only should apply if one parent has sole physical or legal custody and it is thus a “visit”. A parent with joint custody does not “visit”.</p> <p><b>Form: FL341</b> <b>Item: 2(e)i</b> <b>Text: Parenting Time (Visitation)</b> <b>Revised text or note: add the text in this section for check off :</b> “The children shall be with *FATHER / MOTHER at the times listed above and all other times are specifically reserved for the other parent.”</p> <p><b>Form: FL341</b></p>	<p>Agree</p> <p>Family Code 3100 refers to visits in joint custody situations</p> <p>This seems unnecessary and may add controversy if child is in day care, school and</p> <p>Agree</p>

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				<p><b>Item: 2</b>  <b>Text: a. no visitation</b>  <b>Revised text or note:</b> The order throughout all our forms should be least restrictive to most restrictive so “no visitation” should be item “e” and the others move up.</p> <p><b>Form: FL341</b>  <b>Item: 2(e)ii</b>  <b>Text: alternative weekends</b>  <b>Revised text or note:</b> On a very personal note – this type of schedule should be banned as confusing and counterproductive. I know lots of people live with it but it’s very hard for law enforcement to enforce orders like this because it’s virtually impossible to know (especially as more time passes) who’s alternative weekend it is. The item previous works because it’s always possible to know the 1,2,3,4,5<sup>th</sup> weekend. Leave this out if you can.</p> <p><b>Form: FL341</b>  <b>Item: 3</b>  <b>Text: Supervised visits</b>  <b>Revised text or note:</b> Delete everything after “...in item 2 above.” And instead of putting “See attached form FL341A” make it read “Must attach FL341A”</p> <p>It is less redundant as I propose</p> <p><b>Form: FL341A</b></p>	<p>This is still a very common agreement.</p> <p>Agree</p> <p>Will consider this for future form cycles</p>

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## Family Law: Child Custody and Visitation Order

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

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				<p><b>Item:3</b>  <b>Text: Supervised Visits</b>  <b>Revised text or note: suggested language for a future revision: “<u>GUIDELINES FOR SUPERVISORS</u></b>  Must be present for all exchanges.  Shall not leave the children alone with the supervised parent.  Must intervene if the parent discusses the case with the children or acts in a way that upsets the children.  Must terminate the visit if the parent disregards instructions from the supervisor.  Communicate the time of the scheduled visit to the custodial parent by *TIMELINE.”</p> <p><b>Form: FL341</b>  <b>Item:3</b>  <b>Text: Supervised Visits</b>  <b>Revised text or note:</b> This item is logically part of Item 2 and is chronologically before “no visitation”.</p> <p><b>Form: FL341</b>  <b>Item: 4</b>  <b>Text: Transportation</b>  <b>Revised text or note:</b> I prefer the Riverside language:  A licensed driver in an insured and registered vehicle shall provide all transportation with legal child restraint devices.  Transportation shall be arranged by mutual agreement of the parents.</p>	<p>Agree</p> <p>Language was modified</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<p>The receiving parent shall pick up the children.  The custodial parent shall deliver the children.  The children shall be exchanged at  the home of each parent  curbside  at a neutral midpoint: *INFORMATION  During the exchanges, the parent transporting the children shall wait in the vehicle and the other parent shall wait in their residence while the children walk between the two.  If the receiving parent fails to arrive at the appointed time, the waiting parent/caretaker need wait only *TIME minutes before  considering the custodial period to have been canceled.  returning home with the children. The receiving parent may pick up the child at *TIME the next day.</p> <p><b>Form: FL341</b>  <b>Item: 4</b>  <b>Text: Transportation</b>  <b>Revised text or note:</b> Transportation should all be on one form as per my general comments. FL341D item 4 “Safe Transportation” belongs together with this section rather than on 2 different forms.</p> <p><b>Form: FL341</b></p>	<p>Agree</p> <p>The form does not provide for specific</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<p><b>Item: 5</b>  <b>Text: Removal</b>  <b>Revised text or note:</b> We've had a variety of discussions about the legality of specific county removal restrictions. We used to say the child couldn't be removed from the 7 southern California counties but we stopped using that.</p> <p>It seems more logical of the Move Restrictions be tied implicitly to the ability of the parents and children to have frequent CONVENIENT contact. Perhaps the standard could be: "The parent may not move more than 30 miles (40? 45? Something) from the other parent without 45 days written notification &amp; written permission, etc." [thereby giving opportunity for the other party to present it to the Court to hear the ramifications of the move.]</p> <p><b>Form: FL341C</b>  <b>Item:</b>  <b>Text: Holiday Attachment</b>  <b>Revised text or note: Move columns</b> "Even years" and "Odd years" to the left of the Holiday and have times to the right of the holiday as in Riverside example (page 4) attached.</p> <p><b>Form: FL341D</b>  <b>Item: 7</b>  <b>Text: Leave CA for vacation</b>  <b>Revised text or note:</b> This belongs on Form 341C</p>	<p>distance</p> <p>This does not seem to assist in readability.</p> <p>Agree</p>

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				<p>under “vacation”</p> <p><b>Form: FL341D</b>  <b>Item: 3,10,12, 13,</b>  <b>Text: Restriction</b>  <b>Revised text or note:</b> These all belong at the end of the form, or on another form. In either event they should be labeled as restrictions on behavior.</p> <p><b>Form:FL341D</b>  <b>Item:</b>  <b>Text:More restrictions</b>  <b>Revised text or note:</b> Please add the language as follows in addition to the items above:  <b>“RESTRAINTS ON CONDUCT</b>  The children shall have no contact with *NAME.  The children shall not be left alone in the presence of *NAME.  The children shall not be left alone without age appropriate supervision.  Both parents are enjoined and restrained from <i>speaking negatively about the absent parent</i> in the presence of the children, nor will they permit any third person to do so.  Both parents are enjoined and restrained from <i>saying anything or doing anything which</i> might tend to alienate the affection of the children for the other parent, nor will they permit any third person to do so.</p>	<p>This term seems perjorative</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>This seems too broad</p> <p>This seems very broad</p>

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## Family Law: Child Custody and Visitation Order

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Both parents are enjoined and restrained from doing anything, or permitting any third person from doing so, that would be <i>detrimental to the health, safety, morals or welfare of the children</i>.</p> <p>*PARENT shall not consume any alcoholic beverage, narcotic or restricted dangerous drug (except upon prescription) within <u>12</u> hours prior to or during periods of time with the children,</p> <p>nor permit any third person to do so in the presence of the children.</p> <p>Each parent is enjoined and restrained from inflicting corporal punishment or physical discipline of any kind on the children, or permitting any third person to do so.</p> <p>Neither parent shall discuss the business of this case with the children, nor permit any third person to do so, except in the presence of a therapist.”</p> <p><b>Form: FL341D</b>  <b>Item: New</b>  <b>Text:</b>  <b>Revised text or note:</b> Please add these general provisions:  CLOTHING/POSSESSIONS. Each parent shall maintain clothing for the children so that the children do not have to make the exchanges with additional clothing. The children shall be returned to the other parent with the clothing and other property they had</p>	<p>Agree</p> <p>Agree</p> <p>This provision would need to circulate for comment. Will be considered for future updates.</p> <p>This provision would need to circulate for comment. Will be considered for future updates.</p> <p>Agree</p>

**SPR03-47****Family Law: Child Custody and Visitation Order**

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<p>parent with the clothing and other property they had when they arrived.</p> <p>LOG BOOK. The parents will maintain a “log book” and make sure that the book is sent with the children between their two homes. Using business-like notes (no personal comments), parents will record information related to the health, education and welfare issues that arise during their custodial period with the children.</p> <p><b>Form:FL341D</b>  <b>Item: 9</b>  <b>Text:Phone Contact</b>  <b>Revised text or note:</b> Here is some alternative and additional language for this section:</p> <p style="padding-left: 40px;">The children shall be allowed open and reasonable telephone access to each parent.</p> <p style="padding-left: 40px;">Each parent shall be entitled to telephone the children at the residence of the other parent each *DAY at *TIME and the children shall be made available to receive the call.</p> <p style="padding-left: 40px;">Each parent shall assist the children to telephone the other parent each *DAY at *TIME.</p> <p style="padding-left: 40px;">Telephone calls between the parent and children shall be limited to *TIME minutes.</p> <p style="padding-left: 40px;">Each parent is to ensure that the children return all phone messages left for them within 24 hours and that all conversations are private and unmonitored.</p>	<p>Agree</p> <p>Language has been revised.</p>



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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<p><b>Form: FL341D</b>  <b>Item: 8a</b>  <b>Text: Parenting Time</b>  <b>Revised text or note:</b> add a choice of responses, either cancelled or postponed:            “If the receiving parent fails to arrive at the appointed time, the waiting parent/caretaker need wait only *TIME minutes before 1) considering the custodial period to have been canceled; or, 2) returning home with the children. The receiving parent may pick up the child at *TIME the next day.”</p> <p><b>Form: FL341E</b>  <b>Item: 5</b>  <b>Text: School and health notices</b>  <b>Revised text or note:</b> Add a second alternative “Each parent is separately responsible to obtain school records and information.            (or)            “Each parent shall have access to the children’s school, medical and dental records and the right to consult with those professionals providing services to the children.”</p> <p><b>Form: FL341E</b>  <b>Item: between 2 &amp; 3</b>  <b>Text: additional text</b>  <b>Revised text or note:</b> Consider these phrases to add.</p>	<p>Language has been changed</p> <p>Agree</p> <p>Agree</p>

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## Family Law: Child Custody and Visitation Order

(revise forms FL-311, and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355)

[illegible]

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				<p>with those professionals providing services to the children.</p> <p>Each parent shall be designated as a person the children's school is to contact in the event of an emergency.</p> <p>Each parent shall keep the other advised at all times of his/her current residence address, telephone numbers (home and work), the children's school, and the location of any place where the children will be spending any extended period of time four days or longer.</p> <p>Neither parent shall use such information for the purpose of harassing or annoying the other in any way, and each shall be specifically restrained and enjoined from disturbing the other's peace or invading the other's privacy by any means whatsoever.</p> <p><b>Form: FL341F</b>  <b>Item:1.5</b>  <b>Text:Make co-parenting a separate item</b>  <b>Revised text or note:</b> BOTH PARENTS shall participate together in a minimum of *NUMBER co-parenting counseling sessions to work on issues of communication and cooperation for the best interest of the children.            Parents may use the following resources: *PROVIDE INFORMATION (general practice is to list 3 choices)</p> <p><b>Form: FL341F</b></p>	<p>Agree</p> <p>This is in general physical custody provisions</p> <p>This is in general physical custody provisions</p> <p>This form will be revised and recirculated.</p>

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				<p><b>Item: 2</b>  <b>Text: Batterer's Tx</b>  <b>Revised text or note:</b> edit/add "...complete a Probation Department approved/certified Batterer's Treatment program of at least 52 weeks ....."</p> <p><b>Form: FL341F</b>  <b>Item: 4 &amp; 5</b>  <b>Text: Counseling</b>  <b>Revised text or note:</b> allow for intern therapists because in some places that's an affordable alternative but with clinical supervision. Example: "Parent(s) to ensure the children participate in counseling. Clinical assessment(s) to be conducted by a licensed (or licensed eligible supervised therapists). Parent(s) to comply forthwith.</p> <p><b>Form: FL341F</b>  <b>Item: 9</b>  <b>Text: AA/NA</b>  <b>Revised text or note:</b> There may be a religious affiliation issue with just saying AA. A more refined referral might read: *FATHER MOTHER BOTH PARENTS shall participate in a Twelve Step treatment program (participation type) a minimum of *NUMBER times per week for a period of *number months and provide written proof of attendance. (to Court or other parent?)</p> <p><b>Form: FL355</b></p>	<p>Agree. This form will be revised and recirculated.</p> <p>Believe that's covered by the provision for a licensed agency. This form will be revised and recirculated.</p> <p>Agree. This form will be redrafted and recirculated.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				<b>Item:</b> <b>Text:</b> <b>Revised text or note:</b> Would it be right, or beneficial, to call this a Judgement, Modification, Finding?  <b>Form: FL355</b> <b>Item:</b> <b>Text:</b> <b>Revised text or note:</b> Why is it 355? Logically could it be FL340 or FL342 to keep it with all the FL341 forms.	It's not really any of these, although it could be a modification          FL-340 is Findings Order after Hearing, FL-342 is the child support info attachment. FL-350 is the Stipulation to Establish or Modify Child Support
8.	Ms. Sandra Mason Director of Civil Operations Superior Court of California, County of San Luis Obispo	AM	N	FL-341D: Text of items 11 ( no use of children as messengers) & 14 ( firearms) is the same.	Agree – will correct #14
9.	Ms. Carole Raimondi Family Law Facilitator Superior Court of California, County of Alameda	AM	N	a) FL-355: This form does not include a box to check FL-341 “Child Custody and Visitation Order Attachment”. b) FL-341C: The Other box at the bottom of the page has space for only one lien for details for vacations. Considering that might not be sufficient space to write everything there should be a statement that an attachment is possible c) Overall form FL341C is good effort to try and cover all the contingencies of schedules. However, there is very little space allowed to write out the time.	Agree   Agree – will try to expand.   Agree – will try to expand.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				d) FL-311: is this form to be attached to a Notice of Motion or Order to Show Cause? It is called a Child Custody and Visitation Application Attachment and therefore I am wondering to what it will be attached.	Yes, or to a petition
10.	Mr. John David Rothschild Attorney	AM	N	FL-341F Custody and Visitation – special issues attachment (Item 7-drug testing upon request). This item should have inserted in the second sentence after the word “test”, “within 24 hours”. The test must be taken immediately in order to have greater validity.	Agree. This form will be recirculated.
11.	Hon. John Smiley Assistant Presiding Judge Superior Court of California, County of Ventura	N	N	Does not care for the forms	These are optional forms
12.	Diane Dorame, Chair Executive Committee of the Family Law Section of the State Bar	A	A		No response required
13.	Louise Bayles-Fightmaster Family Law Facilitator Superior Court of California, County of Sonoma	AM	N	FL-341D #1 – residence address is listed twice. I do not think this was intended by the drafter. FL-341D #14 – there is an error here in that the order under “Firearms” in no way relates to firearms and simply seems to repeat number 11. FL-341F #6 and #7 – these provisions would appear to be in conflict with the case, Wainwright v. Superior Court (2000) 84 CA 4 <sup>th</sup> 262. It is my understanding that parties can stipulate to provisions such as this, but that the court cannot order it absent in agreement. FL-355: The date and signature lines are too close together. I do not think that litigants will be able to fit the date and the name on two lines, or on one line	Agree  Agree  Agree. This form will be recirculated  Will try

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**Family Law: Child Custody and Visitation Order**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
				without using a font that is too small per Court Rules. I understand that it is important to keep this form to one page, but moving around some of the non-fillable information might provide more space for the date/signature lines.	
14.	Judge Thomas Cahraman Superior Court of California, Riverside County	N	N	These new forms with regard to child custody are too complex. Most of our litigants are self-represented and will find this form difficult to understand and complete.	The committee has simplified based upon comments. These forms are based on current agreements prepared by family court services offices
15.	Judge Ronald Bauer Superior Court of California, County of Orange	AM		<p><b>FL-311:</b> Item 1.b.(2)(i) – Delete “that weekend begins ___Friday___Saturday.” The boxes below specify what days the visitation is to occur.</p> <p>Item 1.b.(3) – Delete “(specify)”</p> <p><b>FL-341:</b> Item 2.e.(i) – Delete “that weekend begins ___Friday___Saturday.” The boxes below specify what days the visitation is to occur.</p> <p><b>FL-341C:</b> Change “School and Secular Holidays” to just “Holidays.” There is no reason to make indirect references to religious or non-religious holidays.</p> <p>Add a space between “New Year’s Eve” and “Child’s Birthday.”</p> <p>On single day holidays, rather than have the parties fill in identical time frames for repetitive selected days, offer the additional of a box at the top or bottom which states, “Unless otherwise noted, all single day</p>	<p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p>

**SPR03-47****Family Law: Child Custody and Visitation Order**

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				<p>holidays shall commence at ____A.M. and conclude at ____P.M.</p> <p>At bottom of form where the “Three day holidays” are referenced: Delete the definition of when a weekends starts. This duplicates the same definition that the parties have already agreed to on Form FL-341 and there is risk of inadvertent inconsistency in asking them to re-define it again later.</p> <p><b>FL-341D:</b> Item 5: The title should read “Child Care.”</p> <p>Item 1: The words “residence address” appears twice. The second should be replaced with “work address.”</p> <p>Item 14: The wording of this item does not correspond with the title “Firearms.”</p> <p><b>FL-341E:</b> Delete Item 3 and re-number. There is no reason to place this warning in the middle of the order. All court orders carry with them the possibility of adverse outcomes, if violated. This seems out of place.</p> <p>Remove the Number from Item 4 and move the text directly under the list obligations in Item 2 and re-number.</p>	<p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Family Code 3083 require the court to “specify the circumstances under which the consent of both parties is required in order to exercise legal control of the child (and the consequences of the failure to obtain mutual consent)</p> <p>Agree</p>



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				<p>Item 5: Add the following additional joint legal custody requirements:  “Neither parent shall change the surname of the child[ren] or cause a different name to be used on medical, dental, school or other records without the written consent of the other parent.”</p> <p>“Each parent shall provide open and private telephone/e-mail access to the minor child[ren] for and during reasonable periods of time.”</p> <p><b>FL-341F:</b> Item 3: Delete one of the words “provide.”</p> <p>Item 7: Change the last sentence to read “The parent who is being tested shall be responsible for payment of fees if the test is positive.”</p> <p>Item 9: Change the last sentence to read as follows:  “...AA/NA meetings per week, obtain a sponsor, obtain written proof of attendance, and submit proof of attendance to the court by ____.”</p>	<p>Agree</p> <p>This is provided for in FL-341C</p> <p>Agree. This form will be redrafted and recirculated.</p> <p>Agree. This form will be redrafted and recirculated</p> <p>Agree. This form will be redrafted and recirculated.</p>
16.	Judge Mary Ann Grilli Santa Clara Superior Court			<p><b>FL-311:</b> Child custody application attachment, we should define what the first weekend is. In other forms, we have said it is the one with the first Saturday of the month.</p> <p>Custody and visitation- special issues- This is a difficult form, for it is combining an application with</p>	<p>Agree</p> <p>Agree – particularly regarding special findings required. This form will be</p>

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				<p>an order. This really makes the wording problematic. It should be two separate forms</p> <p>Re the parenting class- I suggest that we require that the parties sign up within 30 days or some other specific time period. We also require that they provide proof of enrollment to the court, the other party, and to FCS, along with proof of completion.</p> <p>Not all FCS offices will provide lists of classes.</p> <p>The form does not provide for requiring a parenting without violence class, which is a common referral in dv cases.</p> <p>On the batterer's class, it needs to say probation department certified program.</p> <p>The issue of cost for the program needs to be addressed as well. For anger management, which we very rarely do now, they should provide proof of enrollment as well as completion and cost should be spelled out. For the counseling section, we might want to include the 3190 requirements here. For counseling, we need to deal with the costs.</p> <p>The drug testing sections are difficult in view of Wainwright. Here again, this might be easier if there were a separate application from the orders.</p>	<p>redrafted and recirculated.</p> <p>This form will be redrafted and recirculated.</p> <p>Agree. This form will be redrafted and recirculated.</p> <p>Agree. This form will be redrafted and recirculated.</p> <p>Agree. This form will be redrafted and recirculated.</p> <p>Agree. This form will be redrafted and recirculated.</p> <p>Agree. This form will be redrafted and recirculated.</p>

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				<p>The drug/alcohol assessment again is something covered under 3190 and we need to make certain findings in order to order it.</p> <p>Joint legal form- I would encourage the deletion of 5. Parents can obtain their own information about schools now, either on the web or directly. It is very burdensome to require a parent to supply all of this stuff and it invites repeated contempt motions. I would substitute a requirement that each parent be listed on all emergency cards for the child and that both be notified of any emergencies related to the child as soon as possible. Often, we add that both are required to administer any prescribed medications for the child and both are to be notified of any prescribed medications or treatments by the other party.</p> <p><b>FL-341C:</b> Physical custody form- Here again, it is problematic to combine the application with the order. I suggest, reluctantly, that we separate them. This should be an approved form, not an adopted form. In section 1, I am not sure why 4 days was picked.</p> <p>On the move section, it is difficult to use certified mail, if a party will not sign for it.</p> <p>In the substance use section, we often require no alcohol use 24 hours before time with the child as well.</p>	<p>Agree. This form will be redrafted and recirculated.</p> <p>Agree</p> <p>Will proceed with this as a single form, but will make this approved, not adopted.</p> <p>Agree. Will delete specific time.</p> <p>Agree, but that is the notice called for in Family Code 3024.</p> <p>Agree</p>

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				<p>I am concerned about the third party part, as we have no power over the third parties.</p> <p>In the safe transportation section, consider the mode of transport. In a train for example, there are no seat belts.</p> <p>The child care section is very vague and I am not sure what it means.</p> <p>In 8, the illness part should, I believe, require a doctor's excuse, since even sick kids can generally go on visits and be sick in either home. (I know this sounds cruel, but parents will refuse to send a kid with a headache on visits.)</p> <p>In 9, perhaps the listening in part could be changed so that neither the parent nor any other third party can monitor or listen to the calls. This too has its problems in small houses, since the kids may be right there when talking to the other parent.</p> <p>I think a and c duplicate each other in 9.</p> <p>Section 11 should acknowledge that this occurs only in the absence of a restraining order prohibiting contact.</p> <p>14 has one title and seems to duplicate 11, so it needs</p>	<p>Changed to put burden on parents to not allow use by 3<sup>rd</sup> parties.</p> <p>Agree</p> <p>Changed language</p> <p>Added box for doctor's excuse.</p> <p>Agree</p> <p>Agree</p> <p>Agree</p>

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				<p>to be reworded.</p> <p>Holiday schedule- please add a line for ski week or some other title, since some schools have two breaks one in the Feb. time frame and one for spring.</p> <p>Custody attachment- please be sure that we define a weekend, so that the first weekend of the month is the weekend with the first Saturday of the month.</p> <p>FL311- At the top, it says that it is an attachment to the Petition or Application. My concern is application for what? I think this should be clarified.</p> <p>On the back, I suggest that the parties be allowed to attach other forms than the optional ones we are creating. Thus, they could attach stipulations, etc. There should also be a box labeled other at the end of the form.</p> <p>The transportation section should mirror the one in the DVPA forms.</p> <p>FL341- I believe that the grace period language is too vague. It does not, for example, say which one might be late. This needs to be reworded.</p> <p>In 5d, this does not need a check box, since I think it is simply a statement of the law.</p>	<p>Agree</p> <p>This may be covered in the open spaces</p> <p>Agree</p> <p>Agree, Will specify Application for Order</p> <p>Agree</p> <p>Agree</p> <p>Agree</p>

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				<p>Also, I recommend that we add some language regarding health issues, since this is a mandatory form. This could include language that both parents are to be notified of any health or other emergency related to the children, both are to be listed on all emergency cards for the children, and both are to be informed of any medications prescribed for the children. The language about access to school and medical records should probably also be on this form, rather than an optional form. The joint legal section should allow other attachments since the form referenced is an optional form.</p> <p>I suggest that 15 be in bold and perhaps capitalized.</p> <p>FL341C- The issue about the application needs to be resolved here as well. In the box at the bottom, three day holidays should be clarified probably to Friday or Monday holidays.</p> <p>The form should also clearly state that the holiday schedule supercedes the regular custody/visitation schedule.</p> <p>I would like to see the vacation section revised. As a possible option, the parents are often required to notify each other by a certain date with a further date to respond. Then, if there is still a disagreement, father controls in odd years and mother in even years.</p>	<p>Agree</p> <p>Believe that these are currently covered in joint legal custody form. Since the joint legal provisions must be ordered by the court, seems like it would be better to avoid duplication.</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree in concept</p>

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				<p>Should we state that vacation is during non-school times?</p> <p>Also, there are often two winter breaks, one at Christmas time and one in February.</p> <p>FL341D- In 2, parents are often using email to communicate this sort of information. I am not sure that we need to require certified mail.</p> <p>In 6, I am not sure duration has a plural.</p> <p>In 7, there are some enforcement issues here. We cannot make orders as against third parties. In addition, parents cannot really control the actions of those third parties. Usually, these orders restrict the parents and indicate that the children are not to be exposed to negative comments.</p> <p>We should consider adding that the children are not to be exposed to domestic violence. A further common order is no corporal punishment with a definition of that.</p> <p>Another common clause requires the parties to keep each other informed of regular child care providers. This could go in 3.</p> <p>FL341E- I think the health issues should be moved to</p>	<p>Seems unnecessary since adding section for other parent to object.</p> <p>Will rephrase</p> <p>Statute requires certified mail.</p> <p>Agree</p> <p>This language has been amended</p> <p>These are significant changes which should be circulated for comment. This suggestion will be reserved for future revisions.</p> <p>Agree</p>

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				<p>the mandatory form, along with the access to records. A common clause also is to require that the children continue to attend a particular school and we might want to consider that option.</p> <p>FL355- here again, I would hope that we could allow attachments of stipulations and other documents that are not on Judicial Council forms. This would allow FCS documents to easily be attached.</p>	<p>The committee has determined that all forms should be optional. Will focus on all legal custody provisions on FL 341E</p> <p>Agree</p>
17.	Robin Fielding, Ph.D. Superior Court of California, County of Napa	AM		<p>Generally, I expect that these forms will increase the workload in FCS as well as for the court as a whole by increasing conflict between the parents. Additionally, I would not be in favor of these forms as a requirement for mediators/evaluators to use in working out a parenting plan with families. While I believe them to contain important and core elements of a comprehensive parenting plan, I do not believe that they should be required.</p> <p>Families are generally not ready to make decisions on all aspects of their parenting plan at the time of separation. Perhaps one solution would be stating in the introduction that these forms need not be completed in their entirety in order to have them become an order of the court. This would serve families who need the court's assistance in one or two of the specified areas, but not all.</p> <p>Regarding special issues attachment, if completed by</p>	<p>These forms will be optional. We hope they will decrease the workload of FCS.</p> <p>Agree</p> <p>Agree . This form will be redrafted and</p>



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				<p>the court, would constitute a significant change in court practice and policy. While I am not a lawyer, I am told by the Family Law Presiding Judge in the Napa Court that she does not have the authority under Family Law code to order drug testing. While I am supportive of all of the interventions listed, they will be more effective in most instances if agreed to by the parties as a consequence of attending mediation and/or parent education, public or private.</p> <p>Regarding the Joint Legal Custody attachment. Provision #2.(e) that speaks to participation in extracurricular activities, I cannot understand how this provision belongs in this section. I always assumed that a joint legal custody agreement between parents implies that each parent has the right to participate in a child's extracurricular activities. Furthermore, this provision is not in my experience part and parcel of the core legal decisions that parents are trying to make by completing this attachment. It will more than likely contribute to additional conflicts around the child's time with each parent than it's inclusion would warrant.</p> <p>Finally, it has always been my understanding (perhaps, misunderstanding) that joint legal custody does not require parents to confer about the decisions related to the child's welfare. Again and if my assumption is correct, instead of clarifying the issues, I think we are needlessly creating conflict between the</p>	<p>recirculated for comment.</p> <p>This has been included in many Family Court Services templates.</p> <p>The reason for this form is that Family Code Section 3083 requires the court to "specify the circumstances under the consent of both parties is required in order to exercise legal control of the child (and the consequences of the failure to obtain</p>

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				<p>parents, and thereby, increasing the work of the court.</p> <p>Regarding the Additional Provisions-Physical Custody Attachment, I refer you to provision #10. Assuming that we are not stepping on the toes of the first amendment, the No Negative Comments provision should be advanced earlier in the document to #3. These comments are quite common in separating families and I believe should be mentioned before other provisions that may or may not be a part of the family dynamic.</p> <p>There is an error in the content statement under provision #14.</p> <p>Under provision #1 regarding Notification of Parent's Current Address, providing a check box for the State of California's confidential address program is needed and clarifying that if the applicant has an address under this program, the parent need not provide a physical address.</p> <p>Regarding Children's Holiday Schedule Attachment, a statement concerning the necessity for a family to fill in the complete form (or not) is needed. It will create more confusion and conflict where families must agree on every item on the form.</p> <p>I understand that these forms were designed for use in the self-help centers. I do think they will also be</p>	<p>mutual consent.”</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>We will add that to instructional material.</p> <p>We look forward to reports from the courts.</p>

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				useful for judges as they contemplate custody orders, but widespread use of these proposed forms will increase workload for all of us. I think it would be prudent to plan for the AOC to design and complete an assessment and if the resulting workload is greater, to provide for concomitant increases in resources to the courts.	
18.	Pat Foster Director, Family Court Services Superior Court of California, County of Tulare	AM	N	<p>Special Issues Form FL-341F should include a space for each special issue to place what agency or person the parents are to be referred to for services. Too many times parents are told to get services and don't follow up because the order is not specified enough.</p> <p>Although I was at first resistive to a 'check off' approach, I do think these forms are helpful in bringing forth areas of discussion which may not otherwise be discussed and certainly make clear for law enforcement what has been ordered.</p>	<p>Agree</p> <p>Agree</p>
19.	Barrett Brown Superior Court of California, County of Humboldt Family Court Services	AM	N	FL-341F: 6 and 7 concerning drug testing. Many litigants check boxes on their applications and those orders are granted by default, random drug testing and even testing by request may violate the Wainright decision even though they are by default, and that may suggest consent, it may violate Wainright.	Agree. This form will be redrafted and recirculated.
20.	Paula Mclain Santa Barbara Family Court Services Director	AM	N	<p>FL-341C – please divide winter break in 2</p> <p>Add Christmas eve and Christmas day</p> <p>#14 on FL-341D is wrong</p>	<p>Agree</p> <p>No religious holidays are included. This can be on lines below</p> <p>Agree</p>

